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OFFICE OF MANAGEMENT AND BUDGET

2019 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010. The Act requires that OMB issue an annual report and a sequestration order, if necessary.

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SUPPLEMENTARY INFORMATION: This report can be found at

<https://www.whitehouse.gov/omb/paygo/>.

Authority: 2 U.S.C. 934.

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This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111-139, 124 Stat. 8, 2 U.S.C. § 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, no later than 14 working days after the end of a congressional session.

This Report describes the budgetary effects of all PAYGO legislation enacted during the first session of the 116th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB. Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2020,¹ a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C § 934(b) is not necessary.

The budget year balance on each of the PAYGO scorecards is zero because two laws, the Bipartisan Budget Act of 2019 (P.L. 116-37), and the Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019 (P.L. 116-69), directed changes to the balances of the scorecards. P.L. 116-37 removed all balances included on the scorecards at the time of enactment, and P.L. 116-69 shifted the debits on both scorecards from fiscal year 2020 to fiscal year 2021. The changes directed by these laws are discussed in more detail in section IV of this report.

During the first session of the 116th Congress, no laws with PAYGO effects were enacted with emergency requirements under section 4(g) of the PAYGO Act, 2 U.S.C. 933(g). Six laws had estimated budgetary effects on direct spending and/or revenues that were excluded from the calculations of the PAYGO scorecards due to provisions excluding all or part of the law from section 4(d) of the PAYGO Act, 2 U.S.C. 933(d).

¹ References to years on the PAYGO scorecards are to fiscal years.

I. PAYGO Legislation with Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues, and appropriations legislation that affects direct spending in the years after the budget year or affects revenues in any year.² For a more complete description of the Statutory PAYGO Act, see Chapter 11, "Budget Concepts," of the *Analytical Perspectives* volume of the 2020 President's Budget, found on the website of the U.S. Government Printing Office (<https://www.govinfo.gov/content/pkg/BUDGET-2020-PER/pdf/BUDGET-2020-PER.pdf>).

This PAYGO Act's requirement of deficit neutrality is based on two cumulative scorecards that tally the cumulative budgetary effects of PAYGO legislation as averaged over rolling 5- and 10- year periods starting with the budget year. The 5-year and 10-year PAYGO scorecards for each congressional session begin with the balances of costs or savings carried over from previous sessions and then tally the costs or savings of PAYGO laws enacted in the most recent session. The 5-year PAYGO scorecard for the first session of the 116th Congress began with balances of costs of \$3,293 million in 2020 and \$1,646 million in 2021 through 2023. Added to those balances were the budgetary effects of PAYGO legislation through P.L. 116-36. Section 102 of P.L. 116-37 eliminated those balances, resetting each year of the scorecards to zero. The completed 5-year scorecard for the session shows that PAYGO legislation enacted during the session was estimated to have PAYGO budgetary effects that increased the deficit by

² Provisions in appropriations acts that affect direct spending in the years after the budget year (also known as "outyears") or affect revenues in any year are considered to be budgetary effects for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

an average of \$514 million each year from 2020 through 2024.³ Section 1801 of P.L. 116-69 deducted the costs from the scorecard in 2020 and added those costs to the scorecard in 2021. Therefore, the 2020 column of the scorecard is zero and the 2021 column reflects a debit of \$1,028 million.

The 10-year PAYGO scorecard for the first session of the 116th Congress began with balances of costs of \$2,064 million in 2020 and \$1,032 million in 2021 through 2028. Added to those balances were the budgetary effects of PAYGO legislation through P.L. 116-36. Section 102 of P.L. 116-37 eliminated those balances. The completed 10-year scorecard for the session shows that PAYGO legislation for the session increased the deficit by an average of \$657 million each year from 2020 through 2029. Section 1801 of P.L. 116-69 deducted the costs from the scorecard in 2020 and added those costs to the scorecard in 2021. Therefore, the 2020 column of the scorecard is zero and the 2021 column reflects a debit of \$1,314 million.

In the first session of the 116th Congress, 33 laws were enacted that were determined to constitute PAYGO legislation. Of the 33 enacted PAYGO laws, 14 laws were estimated to have PAYGO budgetary effects (costs or savings) in excess of \$500,000 over one or both of the 5-year or 10-year PAYGO windows. These were:

- Medicaid Extenders Act of 2019, P.L. 116-3;
- Consolidated Appropriations Act, 2019, P.L. 116-6;
- Pesticide Registration Improvement Extension Act of 2018; P.L. 116-8;

³ As provided in section 4(d) of the PAYGO Act, 2 U.S.C. § 933(d), budgetary effects on the PAYGO scorecards are based on congressional estimates for bills including a reference to a congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a congressional cost estimate, OMB is required to use its own estimate for the scorecard. Eleven of the bills enacted during this session had such a congressional estimate and therefore OMB was required to provide an estimate for the remaining PAYGO laws enacted during the session.

- John D. Dingell, Jr. Conservation, Management, and Recreation Act, P.L. 116-9;
- Medicaid Services Investment and Accountability Act of 2019, P.L. 116-16;
- Additional Supplemental Appropriations for Disaster Relief Act, 2019, P.L. 116-20;
- Blue Water Navy Vietnam Veterans Act of 2019, P.L. 116-23;
- Taxpayer First Act, P.L. 116-25;
- To provide for a 2-week extension of the Medicaid community mental health services demonstration program, and for other purposes, P.L. 116-29;
- Sustaining Excellence in Medicaid Act of 2019, P.L. 116-39;
- Fostering Undergraduate Talent by Unlocking Resources for Education Act, P.L. 116-91;
- National Defense Authorization Act for Fiscal Year 2020, P.L. 116-92;
- Consolidated Appropriations Act, 2020, P.L. 116-93; and
- Further Consolidated Appropriations Act, 2020, P.L. 116-94.

In addition to the laws identified above, 19 laws enacted in this session were estimated to have negligible budgetary effects on the PAYGO scorecards—costs or savings of less than \$500,000 over both the 5-year and 10-year PAYGO windows.

II. Budgetary Effects Excluded from the Scorecard Balances

Six laws enacted in the first session of the 116th Congress had estimated budgetary effects on direct spending and revenues that were excluded from the calculations for the PAYGO scorecards due to provisions in law excluding all or part of the law from section 4(d) of the PAYGO Act. Two laws were excluded entirely from the scorecards:

- Never Forget the Heroes: James Zadroga, Ray Pfeifer, and Luis Alvarez Permanent Authorization of the September 11th Victim Compensation Fund Act, P.L. 116-34; and
- Bipartisan Budget Act of 2019, P.L. 116-37.

In addition, budgetary effects in four laws were excluded by provisions excluding certain portions of those laws from the scorecards:

- Consolidated Appropriations Act, 2019, P.L. 116-6;
- Continuing Appropriations Act, 2020, and Health Extenders Act of 2019, P.L. 116-59;
- Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019, P.L. 116-69; and
- Further Consolidated Appropriations Act, 2020, P.L. 116-94.

III. PAYGO Scorecards

STATUTORY PAY-AS-YOU-GO SCORECARDS

(In millions of dollars; negative amounts portray decreases in deficits)

	2020	2021	2022	2023	2024					
First Session of the 116 th Congress	408	408	408	408	408					
Balances from Previous Sessions	3,293	1,646	1,646	1,646	0					
Elimination of balances pursuant to Sec. 102 of P.L. 116-37	-3,187	-1,540	-1,540	-1,540	106					
Deduction of the budget year debit pursuant to Sec. 1801 of P.L. 116-69	<u>-514</u>	<u>514</u>	<u>0</u>	<u>0</u>	<u>0</u>					
5-year PAYGO Scorecard	0	1,028	514	514	514					
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
First Session of the 116th Congress	396	396	396	396	396	396	396	396	396	396
Balances from Previous Sessions	2,064	1,032	1,032	1,032	1,032	1,032	1,032	1,032	1,032	0
Elimination of balances pursuant to Sec. 102 of P.L. 116-37	-1,803	-771	-771	-771	-771	-771	-771	-771	-771	261
Deduction of the budget year debit pursuant to Sec. 1801 of P.L. 116-69	<u>-657</u>	<u>657</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
10-year PAYGO Scorecard	0	1,314	657	657	657	657	657	657	657	657

IV. Legislative Revisions to the PAYGO Scorecards

Two laws were enacted prior to issuance of this report that required direct adjustments to the totals on the PAYGO scorecards.

A. Elimination of Balances

Section 102 of P.L. 116-37, the Bipartisan Budget Act of 2019 (BBA), includes a provision that states, “Effective on the date of enactment of this Act, the balances on the PAYGO scorecards established pursuant to paragraphs (4) and (5) of section 4(d) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(d)) shall be zero.” Accordingly, these scorecards show the removal of the balances on the scorecards from laws enacted prior to the BBA.

B. Deduction of Budget Year Debit from the 5- and 10-Year Scorecards

Section 1801 of P.L. 116-69, Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019, includes a provision that states, “For the purposes of the annual report issued pursuant to section 5 of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 934) after adjournment of the first session of the 116th Congress, and for determining whether a sequestration order is necessary under such section, the debit for the budget year on the 5-year scorecard, if any, and the 10-year scorecard, if any, shall be deducted from such scorecard in 2020 and added to such scorecard in 2021.” Accordingly, both the 5- and 10-year scorecards deduct the debit from 2020 and add that debit to 2021.

V. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the first session of the 116th Congress, combined with section 102 of P.L. 116-37 and section 1801 of P.L. 116-69, resulted in zero costs on both the 5-year and the 10-year scorecard in the budget

year, which is 2020 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, were deducted from the budget year and added to the subsequent year, there is no “debit” on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. § 932, and there is no need for a sequestration order.⁴

The totals shown in 2021 through 2029 will remain on the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the second session of the 116th Congress, and will be used in determining whether a sequestration order will be necessary in the future. On the 5-year scorecard for the second session of the 116th Congress, 2021 through 2024 will show balances of costs. On the 10-year scorecard, 2021 through 2029 will show balances of costs.

⁴ Joint Committee reductions for 2020 were calculated and ordered in a separate report and are not affected by this determination. See:
https://www.whitehouse.gov/wp-content/uploads/2019/03/2020_JC_Sequestration_Report_3-18-19.pdf

